

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

IN RE:)
)
PHILIP MANUEL LOPEZ,) CASE NO. 02-64078 JPK
) Chapter 13
Debtor.)

ORDER DENYING OBJECTION TO CLAIM

On July 5, 2005, the debtor, by counsel, filed an Objection to Claim #1 of the Providian National Bank. This objection states that the debtor had filed a prior Chapter 7 case and was granted a discharge in that case, and that consequently any obligation to the creditor was discharged prior to the filing of this case. Proper service was made with respect to the objection and the notice of the objection required by N.D.Ind.L.B.R. B-3007-1, and the claimant did not respond. However, the Court finds that the objection does not establish a *prima facie* basis for denial of the claim sufficient to overcome the assumed validity of the claim by operation of 11 U.S.C. § 502(a) and Fed.R.Bankr.P. 3001(f). The Court's docket record in this case does not indicate any prior bankruptcy filing by the debtor, and the objection states nothing by which this prior filing and the alleged discharge granted in it can be confirmed by the Court – there is no statement of the jurisdiction in which the case was filed, the case number, or the date of entry of discharge. Moreover, the claim itself states that the debt was incurred on August 8, 2002, which was shortly prior to the debtor's filing of this case on August 26, 2002, and it is thus difficult to understand how a Chapter 7 discharge in a case filed prior to this one could have effected the discharge of an indebtedness incurred so imminently prior to the filing of the instant case.

IT IS ORDERED that the debtor's Objection to Claim #1 is denied, without prejudice.

Dated at Hammond, Indiana on August 25, 2005.

/s/ J. Philip Klingeberger
J. Philip Klingeberger
United States Bankruptcy Court

Distribution:
Debtor, Attorney for Debtor
Trustee, US Trustee